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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,372	12/21/2001	Roger A. Sabbadini	078853-0302	3592
30542	7590	06/09/2006	EXAMINER	
FOLEY & LARDNER LLP			GITOMER, RALPH J	
P.O. BOX 80278			ART UNIT	
SAN DIEGO, CA 92138-0278			PAPER NUMBER	

1655

DATE MAILED: 06/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

The amendment received 5/9/06 has been entered and claims 1-8, 15-17, 19-28 are currently pending in this application. Please inform the examiner of all related cases, pending, allowed or abandoned.

The rejections of record in this file will be revisited after resolution of the following issues. Further searching and/or consideration will be required. It is noted that dependent claims should begin with a definite article.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-8, 15-17, 19, 21-28, drawn to a method for treating or preventing vascular disease, classified in class 514, subclass various.
- II. Claim 20, drawn to a composition, unclassifiable.

The inventions are independent or distinct, each from the other because:

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case the method of Group I could be practiced with compositions other than those of Group II.

Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

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Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sabbadini (6,881,546) claims material that is encompassed by the present claims.

Sabbadini (6,858,383) does not claim material closely related to the present claims.


Sabbadini (10/028,520) allowed but not presently issued, in claims 17-20, claims material that is encompassed by the present claims.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ralph Gitomer whose telephone number is (571) 272-0916. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on (571) 272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Ralph Gitomer
Primary Examiner
Art Unit 1655

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